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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Replacement of Part 90 by )  
Part 88 to Revise the Private )  
Land Mobile Radio Services and )  
Modify the Policies )  
Governing Them )

and )

Examination of Exclusivity and )  
Frequency Assignment Policies )  
of the Private Land )  
Mobile Services )

PR Docket No. 92-235

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To: The Commission

**MOTION FOR EXTENSION OF TIME**

The Land Mobile Communications Council ("LMCC"), by its attorneys and pursuant to Section 1.46 of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully requests that the Commission extend the time period in which to file comments and reply comments in response to the Further Notice of Proposed Rule Making ("FNPRM") segment of the above-entitled proceeding.<sup>1</sup> As described herein, the extensions requested will enable members of the private land mobile community to coordinate their positions on the various, interrelated aspects of this proceeding, and thereby provide the Commission with more cohesive input on this complex proposal.

LMCC's membership includes a variety of national associations representing users of the radio spectrum for both private and common carrier purposes. Specifically, LMCC's

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<sup>1</sup> Report and Order and Further Notice of Proposed Rule Making, PR Docket No. 92-235, 10 FCC Rcd \_\_\_\_\_ (1995).

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membership includes the following organizations.

American Association of State Highway and Transportation Officials  
American Automobile Association  
American Mobile Telecommunications Association  
American Petroleum Institute  
American Trucking Associations, Inc.  
Association of American Railroads  
Association of Public-Safety Communications Officials-International, Inc.  
Cellular Telecommunications Industry Associations  
Forestry-Conservation Communications Association  
Industrial Telecommunications Association, Inc.  
International Association of Fire Chiefs  
International Association of Fish and Wildlife Agencies  
International Municipal Signal Association  
International Taxicab and Livery Association  
Manufacturers Radio Frequency Advisory Committee, Inc.  
National Association of State Foresters  
Personal Communications Industry Association  
Telecommunications Industry Association  
UTC, the Telecommunications Association

Many Part 90 users represented by these organizations will be affected directly and significantly by the decisions reached in this proceeding which proposes a fundamental restructuring of the private land mobile regulatory environment in the frequency bands below 800 MHz. It is essential that these parties have sufficient time to consider the ramifications of the FCC's proposals, and to submit thoughtful comments conducive to reasoned decision making.

## **I. BACKGROUND**

The instant proceeding had its genesis more than four years ago when the FCC adopted a Notice of Inquiry to address the myriad issues presented by explosive, continuous growth in the private land mobile services.<sup>2</sup> In November 1992, the agency released a Notice of

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<sup>2</sup> Notice of Inquiry, PR Docket 91-170, 6 FCC Rcd 4126 (1991).

Proposed Rule Making based on the record developed in response to the earlier Inquiry.<sup>3</sup> On June 15, 1995, the FCC adopted a Report and Order in the instant proceeding which resolved many of the technical issues relating to the so-called "refarming" of the private land mobile bands below 800 MHz.<sup>4</sup> The Report and Order established a new channelling plan for those bands, one intended to provide enhanced technical flexibility and to promote a competitive, technically innovative marketplace for product development.

The Report and Order was, however, only the first step toward the refarming of these bands. The agency also adopted a Further Notice of Proposed Rule Making ("FNPRM") wherein it outlined its proposal to provide a regulatory structure for the newly channelled bands that would be compatible with the diverse needs of this heterogeneous wireless community and would also create incentives to encourage the efficient and intensive use of this spectrum. Specifically, the agency has invited comments on a broad range of questions relating to the creation of channel exclusivity in these bands, as well as to the utilization of competitive bidding and user fees, to help achieve its spectral efficiency objectives.

In conjunction with these refarming efforts, the Commission determined that its objectives would be promoted by consolidation of the existing private land mobile radio services into some smaller number of service pools and the introduction of competitive coordination procedures. However, in light of the limited number of comments on this subject, the Commission elected not to adopt rules on this aspect of the refarming initiative. Instead, it invited the users and frequency coordinators of these bands to develop a consensus

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<sup>3</sup> Notice of Proposed Rule Making, PR Docket No. 92-235, 7 FCC Rcd 8105 (1992).

<sup>4</sup> Supra n. 1.

consolidation plan. It provided a three month period from the effective date of the Report and Order, or until November 20, 1995, for the private land mobile community to negotiate and submit a comprehensive consolidation plan.

## **II. THE INTER-RELATED NATURE OF THE CONSOLIDATION AND FNPRM ISSUES DICTATE A CONSOLIDATED FILING DATE**

The Commission has asked for comments on the FNPRM on September 15, 1995 with reply comments due on October 16, 1995. The LMCC respectfully urges that the comment date be extended to November 20, 1995, coterminous with the industry's report on its service consolidation efforts. It further requests that the reply comment date be extended until January 5, 1996, forty-five days after comments have been filed.

The LMCC has established task forces to address both the consolidation and the FNPRM-related issues, with significant overlap in member participation to facilitate continuity of position. Each group already has held several lengthy meetings. Progress has been made in identifying and discussing the numerous matters which must be addressed if the laudable objectives in this proceeding are to be accomplished. However, these discussions have highlighted the inextricably intertwined nature of the issues involved. It has become apparent that the matters raised in the FNPRM cannot be addressed independently of decisions regarding the number and composition of the service pools. In particular, it does not appear possible to develop rules which will facilitate the transition from an environment in which all channels are shared to one in which exclusivity may be achievable prior to negotiating a consolidation plan. Consolidation decisions must be made in tandem with those relating to channel exclusivity if the industry is to develop an approach which will "organize channel

allocations that will enable licensees to more easily utilize advanced technologies and...achieve more efficient and flexible spectrum use." FNPRM at ¶ 51.

**III. THE PROPOSED EXTENSION IN THE FNPRM FILING DATES WILL NOT DELAY THE IMPLEMENTATION OF MORE SPECTRALLY EFFICIENT TECHNOLOGIES IN THESE BANDS**

The proposals on which the FCC has requested comment in the FNPRM are of the utmost importance to the millions of users who currently operate in these bands and those who might utilize it in the future. They include matters of vital importance and far-reaching consequence to the private land mobile community. They require thoughtful deliberation and extensive discussion among a broad variety of user groups, manufacturers and coordinators. These constituencies have come together under the auspices of LMCC in an attempt to achieve some level of industry consensus on these highly complex matters. This effort must be given some reasonable time to work if the Commission hopes to receive useful, well-documented input to support whatever decisions the agency reaches. The originally adopted filing periods will not permit that result.

Moreover, the extensions requested should not be expected to delay the implementation of more spectrally efficient technologies in these bands. The Commission has already determined that additional time must be provided before applications may be filed for even the first stage of new channelization. It has adopted two orders staying the effectiveness of the Report and Order as it relates to acceptance of applications for all new 12.5 kHz offset channels in the 421-430 MHz and 470-512 MHz bands and high-powered stations on the 12.5 kHz offset channels in the 450-470 MHz band until standards are agreed upon for the proper

coordination of such channels.<sup>5</sup> Applications for the next channelization step are not scheduled for acceptance until August 18, 1996. Thus, extending the comment and reply comment date on the FNPRM will not affect the common goal of the FCC and the private land mobile community to implement more spectrally efficient and technically innovative technologies in these already intensively used bands.

#### IV. CONCLUSION

For the reasons described above, the LMCC urges the Commission to extend the comment and reply comment dates in the above-identified proceeding until November 20, 1995 and January 5, 1996, respectively.

Respectfully submitted,

**LAND MOBILE COMMUNICATIONS COUNCIL**

By: David Flinkstrom/tji  
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Dated: September 5, 1995

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<sup>5</sup> Public Notice, DA 95-1839, Freeze on the Filing of Applications for 12.5 kHz Offset Channels in the 421-430 MHz and 470-512 MHz Bands, released August 22, 1995; Public Notice, DA 95-1771, Freeze on Filing of High Power Applications for 12.5 kHz Offset Channels in the 450-470 MHz Band, released August 11, 1995.